IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

CRP.No. 318 of 2002(G)

AGAInSt THE ORDer IN I.A.45/02 IN OS.16/2000 of MUNSIFF COURT, ETTUMANOOR
.....

REVN. PETITIONER: PETITIONER/2ND DEFENDANT

ADVOCATE N.K.NARAYANAN NAMBOOTHIRI,
S/O. SRI.KESAVAN NAMBOOTHIRI, NARAMANGALAM ILLAM,
VALAVOORU KARA, VALLICHIRA VILLAGE.

BY ADV. SRI.V.PHILIP MATHEWS

RESPONDENTS: COUNTER PETITIONERS/PLAINTIFFS
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1. THIRUVITHAMCOORE DEVASWOM BOARD,
THIRUVITHAMCOORE DEVASWOM BOARD OFFICE,
THIRUVANANTHAPURAM - REPRESENTED BY ITS SECRETARY.

2. ETTUMANOOR GROUP ASSISTANT DEVASWOM
COMMISSIONER, DEVASWOM OFFICE, ETTUMANOOR,
MAHADEVAR KSHETHRAM, ETTUMANOOR.

BY ADV. SRI.K.N.VENUGOPALA PANICKER, SC, TDB

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP NOS. 701/02 AND I.A.881/03
IN CMP 701/02 IN
C.R.P. NO.318 OF 2002

DISMISSED

10/7/07 **SD/- M.N. KRISHNAN, JUDGE.**

[True Copy]

P.A. TO JUDGE.

M.N. KRISHNAN, J.

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C.R.P. NO. 318 OF 2002

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Dated this the 10th day of July, 2007.

O R D E R

This revision petition is preferred by the 2nd defendant in O.S.16/00 pending before the Munsiff Court, Ettumanoor. According to the petitioner he is a sub tenant and that he has paid rent to the premises from 18th October, 1991 onwards. But, unfortunately, original of the receipts issued to him were lost and therefore he wants rent register relating to the period 1990-1995 to be produced for proper determination of the case. The plaintiff objected it on the ground that the burden is on the tenant to prove the payment of rent and that he has never paid the rent of the schedule room. The Court dismissed the petition on the ground that the suit is listed for evidence and the petition is filed only to protract the proceedings. I feel the order passed by the learned Munsiff suffers from infirmity. The petitioner wanted to prove the payment of rent in this case for satisfying two purposes. One is to establish that the landlord has recognized him as a sub tenant and secondly that he had

paid rent to the landlord. When such is the contention and original of the receipt is lost from his custody principles of natural justice requires to give permission to him to summon for the document retained by the landlord which will evidence payment of rent, especially when the landlord denies receipt of rent from the petitioner. Just because the suit is listed or it is posted for evidence it will not take away the valid right of the defendant to get the document which is really necessary for proper consideration and disposal of the case. Therefore, the order under challenge is set aside and the CRP is allowed and the Court below is directed to permit the 2nd defendant to summon the documents sought for in this petition.

The CRP is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.

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C.R.P. No. 318 OF 2002

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O R D E R

10th July, 2007.